

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

MARY CATHERINE BJORUM,  Plaintiff,  vs.  McDONALD'S USA, LLC,  Defendant.	<b>COMPLAINT</b> <b>With Jury Trial Demanded</b>
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Plaintiff Mary Catherine Bjorum brings this action for sex discrimination in employment in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*, stating the following claims against the Defendant:

**PARTIES, JURISDICTION AND VENUE**

1. Mary Catherine Bjorum ("Bjorum") is a resident of Minnehaha County, South Dakota.
2. McDonald's USA, LLC ("McDonald's USA") is a subsidiary of McDonald's Corporation.
3. McDonald's USA is a Delaware corporation doing business as a franchisor which provides support for franchisees of McDonald's restaurants.
4. This action for sexual discrimination arises under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.* ("Title VII"). As such, this Court has original jurisdiction to hear this Complaint and to adjudicate the claims stated herein pursuant to 28 U.S.C. § 1331.
5. At all times relevant, McDonald's USA was an "employer" within the meaning

of 42 U.S.C. § 2000e(b).

6. At all relevant times, Bjorum was an "employee" of McDonald's USA within the meaning of 42 U.S.C. § 2000e(f).

7. During her employment with McDonald's USA, Bjorum's job role was as a field-based employee for the Denver Field Office, and she primarily worked from the Sioux Falls area.

8. Venue is proper under 28 U.S.C. § 1391 because the events or omissions giving rise to her claims occurred within the Southern Division of the District of South Dakota.

9. Following her termination from employment on November 5, 2021, Bjorum timely filed a Charge of Discrimination with the EEOC alleging sex discrimination and retaliation in violation of Title VII.

10. Bjorum exhausted her administrative remedies and received a Right to Sue Notice from the EEOC dated July 13, 2022.

### **FACTUAL ALLEGATIONS**

11. McDonald's USA has a written employment policy which prohibits sex discrimination, and states that the employer will not tolerate sex discrimination.

12. In April 2018, McDonald's USA hired Bjorum in the role of an Operations Associate, with job duties that included providing franchisee support and evaluations for McDonald's branded restaurants in Minnesota, South Dakota, and North Dakota.

13. McDonald's USA required Bjorum to travel to franchised restaurants and to various franchisee and staff meetings in order to perform essential functions of her position.

14. Bjorum's direct supervisor was Diana Thurlo.

15. Bjorum performed the essential functions of her job in a manner that met McDonald's expectations.

16. McDonald's USA rewarded Bjorum with positive performance reviews, and with salary increases and bonuses.

17. McDonald's USA did not subject Bjorum to any disciplinary actions prior to her termination.

18. During her employment, Bjorum at all times abided by McDonald's USA Covid-19 protocols.

19. During her employment, Bjorum at all times abided by McDonald's USA travel policies.

20. During her employment, Bjorum observed that her direct supervisor seemed to have a preference for male employees, including in supporting males for promotional opportunities and in her disciplinary actions and performance expectations for women.

21. In the Spring of 2021, a number of McDonald's USA employees flew to meetings on private plane flights provided by franchisees in order to complete McDonald's business objectives, such as to attend meetings with franchisees and to conduct restaurant support visits.

22. In April 2021, Bjorum flew on a private plane flight provided by a franchisee for the sole purpose of completing work-related meetings.

23. Bjorum's supervisors were aware of her April 2021 travel plans and did not object or otherwise address her travel to this business-related meeting before or after it occurred.

24. On or about October 26, 2021, Bjorum attended a meeting in Minneapolis for an East Side Denver Field Office meeting with her supervisor and other co-workers.

25. At the October 26 meeting, Bjorum expressed to Thurlo and a co-worker that she was glad to be able to have their team meet in person. Thurlo responded to Bjorum's comment by saying: "Look around the room. There are too many women. We need to fill the open position with diversity."

26. On or about November 5, 2021, Thurlo and a McDonald's human resources staff member summoned Bjorum to a meeting and announced that Bjorum was fired.

27. Thurlo stated that Bjorum was being terminated for violating the McDonald's travel policy, but did not explain how Bjorum was in violation of the policy or why similarly situated male employees who had taken similar business-related trips were still employed.

28. To the best of her knowledge, McDonald's USA advertised to fill Bjorum's position, but it remains unfilled since Bjorum's Charge of Discrimination was filed.

**COUNT ONE**  
**Sex Discrimination in Violation of Title VII of the  
Civil Rights Act of 1964**

29. The Plaintiff incorporates the foregoing paragraphs by reference.

30. 42 U.S.C. § 2000e-2(a)(1) provides that it is unlawful for an employer "to fail or refuse to hire or to discharge any individual, or to otherwise discriminate against any individual with respect to [her] compensation, terms, conditions, or privileges of employment, because of such individual's ... sex[.]"

31. The Defendant treated the Plaintiff differently and less favorably in the terms and conditions of her employment compared to similarly situated male employees, including in the terms of her travel terms, promotional opportunities, performance expectations and in disciplinary actions.

32. The Defendant terminated the Plaintiff's employment.

33. The Plaintiff's sex played a part in the Defendant's employment decisions affecting the Plaintiff, including its decision to terminate her employment.

34. The Defendant's stated reason for the Plaintiff's termination was not the real reason for the Defendant's termination decision.

35. The Defendant's conduct described herein violates 42 U.S.C. § 2000e-2.

36. As a result of the Defendant's conduct, the Plaintiff has suffered and will continue to suffer past and present loss of income, mental anguish, emotional distress, humiliation, embarrassment, loss of reputation and other damages.

37. The Defendant's conduct and decisions described above were made with malice, or reckless or deliberate disregard for the Plaintiff's legal rights.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Mary Catherine Bjorum prays for judgment against McDonald's LLC, USA as follows:

- A. That the practices of Defendant complained of in this Complaint be determined to violate the rights secured to the Plaintiff under Title VII;
- B. For all relief available to the Plaintiff, including compensatory relief and damages arising from loss of past and future income, benefits, emotional distress, and other damages, with interest on such amounts;
- C. For punitive damages if allowed;
- D. For the Plaintiffs attorneys' fees, costs and disbursements incurred;
- E. For a jury trial on all issues; and
- F. For such further and other relief as the Court deems just and equitable.

Dated this 7<sup>th</sup> day of October, 2022.

**JOHNSON POCHOP & BARTLING  
LAW OFFICE, LLP**



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*Mary Catherine Bjorum*

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

Mary Catherine Bjorum

(b) County of Residence of First Listed Plaintiff Minnehaha County, SD  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Stephanie E. Pochop | Johnson Pochop & Bartling  
405 Main Street | PO Box 149 Gregory, SD 57533 (605) 835-8391

## DEFENDANTS

McDonalds USA

County of Residence of First Listed Defendant Cook County, IL  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions		

## V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding    ☐ 2 Removed from State Court    ☐ 3 Remanded from Appellate Court    ☐ 4 Reinstated or Reopened    ☐ 5 Transferred from Another District (specify)    ☐ 6 Multidistrict Litigation

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
42 USC § 2000e et seq. (Title VIII of the Civil Rights Act of 1964, as amended)

Brief description of cause:  
Sex discrimination in employment

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$  
\$75,000+

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE 10/7/22 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_